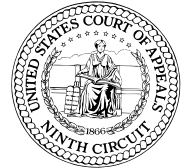




Molly C. Dwyer
Clerk of Court

Office of the Clerk
United States Court of Appeals for the Ninth Circuit
95 Seventh Street
Post Office Box 193939
San Francisco, California 94119-3939



(415) 355-8000

October 9, 2008

To: Philip Edward Hantel, Attorney
710 W. Roosevelt
Phoenix, AZ 85007

From: Molly C. Dwyer, Clerk of Court
By: Liora Anis, Deputy Clerk

Re: Receipt of a Deficient Brief of Appellant on 10/8/08

USCA No. 08-10290 USA v. Andrew Acosta

The referenced brief cannot be filed for the following reason(s):

- *Excerpts of record pages not consecutively paginated:* The excerpts of record must be either consecutively paginated beginning with page 1, or, if tabs are used, the pages within each tab must be consecutively paginated. See 9th Cir. R. 30-1.6. Several of the tabs within the excerpts submitted contain documents which are not consecutively numbered. At least one of the documents does not have any page numbers (tab 11), and another document is upside-down in the excerpts (tab 6). **Please submit 5 copies of replacement excerpts of record in compliance with court rules.**

* Please also review the requirements of 9th Cir. R. 30-1.10 for submitting Presentence Reports in the future. Specifically, a motion to file the presentence report is unnecessary, and the presentence report must be submitted in a sealed envelope which reflects the title and number of the cases and that four copies of the presentence report are enclosed.

The following action has been taken with respect to the brief received in this office:

- *The deficiency by appellant is judged to be serious. We cannot file your brief. The deficiency must be corrected within 14 days or the case is subject to dismissal pursuant to 9th Cir. R. 42-1. The receipt of a seriously defective brief in this office does not toll the time for filing the brief while the defect is being corrected.*

9th Cir. R. 42-1 provides:

When an appellant fails to file a timely record, pay the docket fee, file a timely brief, or otherwise comply with rules requiring processing the appeal for hearing, an order may be entered dismissing the appeal. In all instances of failure to prosecute an appeal to hearing as required, the Court may take such other action as it deems appropriate, including imposition of disciplinary and monetary sanctions on those responsible for prosecution of the appeal.

When submitting corrections to your brief or a corrected brief, **please return a copy of this letter.** If you don't submit your correction within 14 days of this notice, you must file a motion for leave to file a late brief. *See* 9th Cir. R. 31-2.3 re: Extensions of time for filing brief.